

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 14-54351

AMY ROSENFELD,

Chapter 7

Debtor.

Judge Thomas J. Tucker

JOEL ROSENFELD,

Plaintiff,

v.

Adv. Pro. No. 15-4318

AMY ROSENFELD,

Defendant.

**ORDER REQUIRING PLAINTIFF TO SHOW CAUSE IN WRITING WHY THIS  
ADVERSARY PROCEEDING SHOULD NOT BE DISMISSED FOR LACK OF  
SUBJECT MATTER JURISDICTION**

Plaintiff Joel Rosenfeld is the ex-spouse of Defendant Amy Rosenfeld (the “Debtor”). Debtor filed a voluntary petition for relief under Chapter 7 on September 10, 2014, commencing Case No. 14-54351. In this adversary proceeding, Plaintiff seeks a denial of Debtor’s discharge under 11 U.S.C. § 727(a). It appears that the debt or debts owed, or potentially owed, by Debtor to Plaintiff all arise from or are based on a state court judgment of divorce between the parties that was entered on July 1, 2013. Or, in the alternative, it may be that there is *no* debt owing or potentially owing by Debtor to Plaintiff, since Plaintiff does not actually allege that there is any such debt.<sup>1</sup> If there is any debt, it appears that such debt is non-dischargeable under either 11

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<sup>1</sup> Plaintiff has not yet filed a proof of claim in Debtor’s bankruptcy case (Case No. 14-54351). The deadline for filing claims is June 8, 2015. (*See* Docket # 69 in Case No. 14-54351). On Debtor’s amended Schedule F (Docket # 65), Debtor listed Plaintiff as a creditor holding an unsecured nonpriority

U.S.C. § 523(a)(5) or 11 U.S.C. § 523(a)(15), or a combination of these two sections. Thus, whether there is a debt or is not a debt, in either case, it appears that even if Plaintiff were successful in this § 727(a) action, he would gain nothing for himself, beyond what he already has.

In a similar case, *Mapley v. Mapley*, 437 B.R. 225 (Bankr. E.D. Mich. 2010), this Court dismissed an adversary proceeding seeking a denial of the debtor's discharge brought by the plaintiff (the ex-wife of the debtor). That dismissal was based on a lack of subject matter jurisdiction, where all of the debts owed by the debtor to the plaintiff were nondischargeable under either 11 U.S.C. § 523(a)(5) or § 523(a)(15). This Court reasoned:

[I]t is clear that none of the debt in question will be discharged even if the Debtor obtains a discharge in his Chapter 7 case. So Plaintiff Gloria Mapley will suffer no injury if the Debtor obtains his Chapter 7 discharge. It follows that the relief Plaintiff seeks in this adversary proceeding would give her nothing she does not already have—what she already has is a claim against the Debtor that will not be discharged in the Debtor's Chapter 7 case. Thus, Plaintiff can gain nothing for herself by blocking the Debtor's discharge under § 727. And Plaintiff does not have standing to object to the Debtor's discharge solely on behalf of *other* creditors.

For these reasons, Plaintiff cannot satisfy the Article III “case or controversy” requirement, and this Court lacks subject matter jurisdiction. Put in more practical terms, there is no legitimate point to Plaintiff pursuing the only relief she seeks in this adversary proceeding (a denial of Debtor's Chapter 7 discharge.)

*Id.* at 228-29 (footnotes omitted)(citation omitted).

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claim, which is contingent, unliquidated, and disputed, and which was incurred in 2013, based on “Potential obligations arising from Judgment of Divorce.” Plaintiff's complaint filed in this adversary proceeding (Docket # 1, ¶ 8) states that the divorce judgment between the parties was entered on July 1, 2013, but the divorce judgment is not attached to the complaint or otherwise in the record.

Oddly, Plaintiff's complaint (Docket # 1) does not allege that there is *any* debt owing by Debtor to Plaintiff; it alleges nothing about any such debt. This is very unusual for a complaint objecting to discharge filed by a party other than a Chapter 7 Trustee or the United States Trustee.

It appears that under the reasoning and holding in *Mapley*, this adversary proceeding also may need to be dismissed for lack of subject matter jurisdiction.

For these reasons,

IT IS ORDERED that **no later than June 19, 2015**, Plaintiff must file a written response to this Order, showing cause why this adversary proceeding should not be dismissed for lack of subject matter jurisdiction.

**Signed on June 5, 2015**

/s/ Thomas J. Tucker  
**Thomas J. Tucker**  
**United States Bankruptcy Judge**